IN THE HIGH COURT OF JUDICATURE AT BOMBAY
O.O.C.J.

APPEAL NO.1083 OF 2005
IN
NOTICE OF MOTION NO.2306 OF 2005
IN
SUIT NO.145 OF 2003

M/s.Padam Exports & anr. .. Appellants

v/s.

Union of India & anr. .. Respondents

Mr.G.L.Jain in person for the appellants.

Mr.S.R.Rajguru for the respondents.

CORAM : R.M.LODHA AND
P.V.KAKADE, JJ.

DATED : 2nd December, 2005

P.C.

Admit.

2. Mr.S.R.Rajguru, advocate waives service for the respondents.

3. In appeal, the appellants challenge the order dated 24th August, 2005 passed by the learned motion Judge imposing cost of Rs.10,000/- on the appellants and payment thereof to the Maharashtra State Legal Services Authority.

4. Notice of motion No.2306 of 2005 was taken out by the plaintiffs (appellants herein) for diverse reliefs. When the said notice of motion came up for consideration, the plaintiff No.2 who appeared in person prayed for withdrawal of the notice of motion and also gave an undertaking that he would not make such application in future. In this

backdrop, we hardly find any justification in the impugned order directing the present appellants (plaintiffs) to pay cost of Rs.10,000/- to the Maharashtra State Legal Services Authority. It need not be emphasized that the cost cannot be imposed by the court by way of penalty and that too in the matter where the application was not even pressed and undertaking was given by the plaintiffs that no such application shall be made in future.

5. The impugned order dated 24th August, 2005 directing the plaintiffs to pay cost of Rs.10,000/- to the Maharashtra State Legal Services Authority being unjustified is quashed and set aside.

6. Appeal is allowed in the aforesaid terms. No costs.

(R.M.LODHA, J.)

(P.V.KAKADE, J.)